

EXHIBIT “C”

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

STEVEN McDERMOTT AND)
STACEY McDERMOTT)
)
Plaintiffs)
)
v.)
FEDEX GROUND PACKAGE) CIVIL ACTION NO.04-CV-12253MLW
SYSTEMS, INC. AND)
T.S. PRUITT)
)
Defendants)

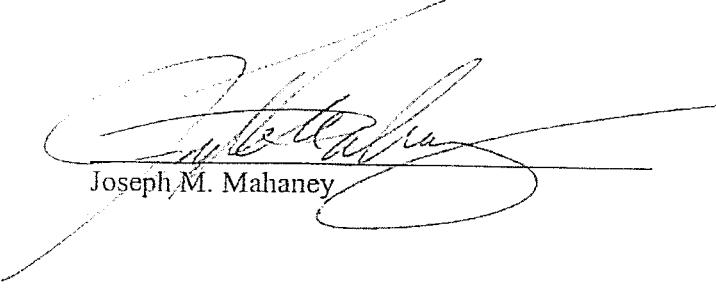
AFFIDAVIT OF PLAINTIFFS COUNSEL

I, Joseph M. Mahaney, being duly sworn, depose and say, based upon my own personal knowledge the following:

1. I am the attorney for the Plaintiffs in the above captioned matter;
2. J.T. Fosbrink of Dunbar, Pennsylvania, an essential witness to this civil action, is suffering from a form of cancer most likely making him unavailable to testify;
3. Mr. Fosbrink was driving a tractor trailer for Arsenberger Trucking of 681 Mill Run Road, Mill Run, Pennsylvania on February 7, 2003, the date of the accident;
4. Mr. Fosbrink was a witness to this incident, saw the FedEx truck strike the Plaintiffs truck, and spoke with Steven McDermott immediately after the collision;
5. On or about September 1, 2005, as part of the investigation in this matter I spoke by telephone with representatives of Arsenberger Trucking, 681 Mill Run Road, Mill Run, Pennsylvania, asking to speak with J. T. Fosbrink;

6. I was told that J.T. Fosbrink had been recently been diagnosed with an advanced stage of cancer located in his head, face, and brain, that he no longer worked at Arsenberger Trucking and was home with his family;
7. On September 5, 2005, I spoke with Mrs. J. Fosbrink, the wife of J.T. Fosbrink, who told me that her husband did in fact have cancer and was too ill to speak with me or to be able to give a statement under oath;
8. On September 6, 2005, I wrote to Mrs. J. Fosbrink (see attached "B") requesting an opportunity to speak with her husband;
9. I received no response from Mrs. J. Fosbrink and did not pursue the statement, given the tone of the last conversation with the wife;
10. On Monday, May 8, 2006, I spoke with Mrs. J. Fosbrink by telephone again and asked about her husbands condition;
11. Mrs. Fosbrink informed me that her husband had been undergoing an extensive amount of chemotherapy, mainly to his brain;
12. Again Mrs. Fosbrink stated her husbands cancer has significantly affected his brain and central nervous system and has been receiving substantial radiation treatment.
13. Mrs. Fosbrink states Mr. Fosbrink has no memory of the accident and therefore is unlikely to contribute to this matter;

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 22ND DAY OF MAY, 2006.



Joseph M. Mahaney

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September 6, 2005

Mrs. J. Fosbrink
476 Dunbar Ohiopyle Road
Dunbar, PA 15431-2510

Dear Mrs. Fosbrink,

Thank you for returning my call this afternoon.

Just to reassure you, I am not looking for a deposition or testimony at trial from your husband. I know his present condition would not allow that.

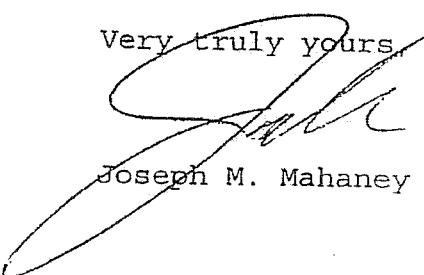
If I could take a statement from him at some time in the near future it would be extremely beneficial.

My client, Steven McDermott, is permanently disabled and has had two back operations resulting from the accident. It only recently came to light that FedEx, the truck that hit my client, is claiming that my client was not in his truck at the time of impact. My client tells me the only person who can state that he was in his truck at the time of impact is your husband.

The position that FedEx is taking is not unusual. If I cannot prove my client was in the vehicle at the time of impact, he could be without compensation. My client is and will be permanently out of work as a result of this accident. He has four children, all under fifteen years of age.

I would like very much to hear from you. I know this is a big favor to ask in light of your present situation. Thank you so much for your time with this matter.

Very truly yours,


Joseph M. Mahaney

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June 23, 2006

Via Facsimile and Regular Mail

Joseph M. Mahaney, Esq.
Goguen, McLaughlin, Richards & Mahaney, P.C.
The Harrier Beecher Stowe House
2 Pleasant Street
South Natick, MA 01760

**Re: Steven McDermott vs. FedEx Ground and Mr. Pruitt
U.S.D.C. District of Massachusetts C.A. No.: 04-CV-12253**

Dear Joe:

I am in receipt of the Summons and Amended Complaint served on FedEx Ground Package Systems, Inc. ("FedEx") in the above-referenced matter. FedEx has already filed its answer to the Amended Complaint back on April 21, 2006. I have already served you with a copy but please let me know if you need another one.

Thank you.

Very truly yours,

Adam A. Larson
Adam A. Larson

AAL:sct

Enclosure(s)

cc: James M. Campbell, Esq.
Clerk of the Civil Court